

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

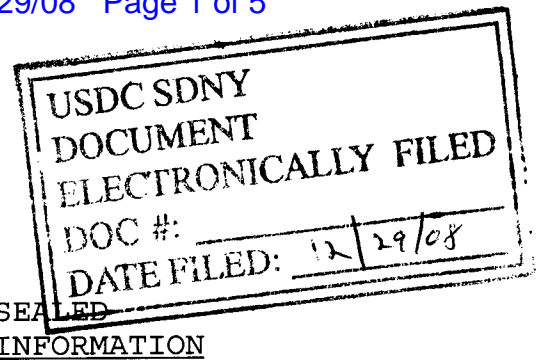
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UNITED STATES OF AMERICA

- v. -

JOHN WHYTE,

Defendant.



08 Cr. ____ (RPP)

08CRIM. 1330

COUNT ONE

The United States Attorney charges:

1. From in or about 2000, up to and including in or about 2007, in the Southern District of New York and elsewhere, JOHN WHYTE, the defendant, and others known and unknown, unlawfully, willfully, and knowingly embezzled, stole, abstracted, and converted to their own use, and to the use of another, moneys, funds, securities, premiums, credits, property, and other assets of an "employee welfare benefit plan or employee pension benefit plan," as that term is defined in Title 18, United States Code, Section 664, and of a fund connected therewith, to wit, WHYTE participated in a scheme to submit false shop steward reports that under-reported the hours worked by carpenters for a construction contracting company of which he was the sole owner, K.W. Construction, Inc., thereby violating the terms of the collective bargaining agreement ("CBA") between K.W. Construction and the District Council of New York City and

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Vicinity of the United Brotherhood of Carpenters and Joiners ("the District Council") and evading K.W. Construction's required contributions to the District Council's benefit funds.

(Title 18, United States Code, Sections 664 and 2.)

COUNT TWO

The United States Attorney further charges:

2. From in or about 2000, up to and including in or about 2007, in the Southern District of New York and elsewhere, JOHN WHYTE, the defendant, and others known and unknown, unlawfully, willfully, and knowingly combined, conspired, confederated, and agreed together and with each other to commit an offense against the United States, to wit, to violate Title 18, United States Code, Section 664.

Object of the Conspiracy

3. It was a part and object of the conspiracy that JOHN WHYTE, the defendant, and others known and unknown, unlawfully, willfully, and knowingly would and did embezzle, steal, abstract, and convert to their own use, and to the use of another, moneys, funds, securities, premiums, credits, property, and other assets of an "employee welfare benefit plan or employee pension benefit plan," as that term is defined in Title 18, United States Code, Section 664, and of a fund connected therewith, in violation of Title 18, United States Code, Section 664.

Overt Act

4. In furtherance of the conspiracy and to effect its illegal object, JOHN WHYTE, the defendant, and others known and unknown, committed the following overt act, among others, in the Southern District of New York and elsewhere:

a. In or about 2004, JOHN WHYTE, the defendant, caused to be filed with the District Council office in Manhattan false employer benefit remittance reports that under-reported the number of carpenters and hours worked at a K.W. Construction work site.

(Title 18, United States Code, Section 371.)

COUNT THREE

The United States Attorney further charges:

5. From in or about 2000 up to and including in or about 2007, in the Southern District of New York and elsewhere, JOHN WHYTE, the defendant, being an employer, unlawfully, willfully, and knowingly, and with intent to influence officers and employees of a labor organization in respect to their actions, decisions and duties, paid, and delivered, and agreed to pay, and deliver, money and other things of value to a labor organization, and its officers and employees thereof, which represented, and admitted to membership, the employees of such employer who are employed in an industry affecting commerce, to wit, WHYTE paid money to shop stewards at K.W. Construction work

sites to induce those shop stewards to under-report the number of carpenters and hours worked at the work sites.

Title 29, United States Code, Sections 186(a)(2),
(a)(4), (d)(2), and 2.)

Forfeiture Allegation

6. As the result of committing the employee benefit plan embezzlement offense in violation of Title 18, United States Code, Section 664, alleged in Count One of this Information; the conspiracy offense in violation of Title 18, United States Code, Section 371, alleged in Count Two of this Information; and the unlawful payment to a labor organization offense in violation of Title 29, United States Code, Sections 186(a)(2), (a)(4), (b)(1), and (d)(2), alleged in Count Three of this Information, JOHN WHYTE, the defendant, shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(c) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense alleged in Counts One, Two and Three of this Information.

Substitute Asset Provision

7. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited

with, a third person;


(3) has been placed beyond the jurisdiction of
the Court;

(4) has been substantially diminished in value;
or

(5) has been commingled with other property which
cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. §
853(p), to seek forfeiture of any other property of the defendant
up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981 and
Title 28, United States Code, Section 2461.)


LEV L. DASSIN *med*
Acting United States Attorney